THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 15717 of 1996

Dated: 28.02.2007

Between:

D. Sailesh Kumar & another

... Petitioners

AND

Chairman & Managing Director,
Hindustan Aeronautics Limited,
Bangalore & others.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 15717 of 1996

ORDER:-

This writ petition is filed for a writ of Mandamus to declare the action of the respondents in not providing employment on compassionate grounds to the 1st petitioner as illegal and opposed to the public policy of the welfare State and also for a consequential relief to consider the claim of the petitioners for appointment on compassionate grounds.

The facts, which are not in dispute, are that the petitioners' father was an employee in Hyderabad division of the Hindustan Aeronautics Limited and he died in harness. Subsequently, the mother of the petitioners was appointed as Binder "A" in purchase department in the year 1981. She also died on 21.03.1988 leaving behind her the petitioners who were then minors. On attaining their majority, the petitioners made a representation on 28.02.1995 to provide employment to petitioner No.1 on compassionate grounds. This representation was rejected by the Personnel Officer, acting on behalf of the Hindustan Aeronautics Limited, through his communication dated 30.06.1995 wherein it is mentioned that in view of the restriction on the intake of manpower

due to lack of vacancies, they are unable to consider the petitioners' request to provide employment to them at the present. It is also mentioned that the petitioners' candidature will be considered for employment in accordance with the rules of the company as and when vacancies arise.

Sri E.V. Suresh Kumar, learned counsel for the respondents placed a fax copy of the proceedings No.HAL/P&A/27(1)/MP(A)/97 dated 15.07.1997 whereunder the Management of the respondents decided not to continue the scheme of compassionate appointment and accordingly all the dependants/individuals who have registered their names with Hindustan Aeronautics Limited for possible employment under the respective categories may be explained the position suitably in writing. Sri E.V. Suresh Kumar orally asserted that as a fact the petitioners were intimated about the discontinuance of the scheme of compassionate appointments.

Leaving aside whether the petitioners were informed of discontinuance of the scheme of compassionate appointments or not, I am of the view that on the facts of this case, the petitioners are not entitled to any relief. The petitioners' mother died on 21.03.1988 and at that time the petitioners were minors. About seven years later they applied for compassionate appointment. Since the respondents were unable to provide them with employment on account of restriction on the intake of manpower, the petitioners remained unemployed. Now more than 10 ½ years had elapsed since the filing of this writ petition. It has been held that an appointment on compassionate grounds is an exception to

Article 16 of the Constitution of India and that a citizen has no enforceable right to such appointment. The Courts, however, recognized the scheme of compassionate appointments in cases of parents dying in harness in order to provide immediate succor to the dependents due to sudden loss of the bread winner of the family.

Viewed from this perspective, a lapse of about two decades after the death of the mother of the petitioners does not persuade this Court to grant any relief to the petitioners. At any rate, in 1997 itself, the policy of compassionate appointments was discontinued by the Hindustan Aeronautics Limited.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed. No order as to costs.

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C.V. NAGARJUNA REDDY, J

Date: 28.02.2007
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